

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,	)	No. ED92407
	)	
Respondent,	)	Appeal from the St. Louis County
vs.	)	Circuit Court
	)	
ROBERT C. NESBITT,	)	
	)	
Defendant/Appellant.	)	Filed: November 17, 2009

The defendant, Robert Nesbitt, appeals the judgment entered by the Circuit Court of St. Louis County following his conviction by a jury on three counts of forgery, in violation of section 570.090 RSMo. (Supp. 2008).

JUDGMENT REVERSED, SENTENCE VACATED, AND CAUSE REMANDED FOR RESENTENCING

DIVISION THREE HOLDS: We hold that the second indictment suspended the previous information in lieu of indictment in its entirety, and that the information was quashed. Thus, the trial-court finding of prior- and persistent-offender status based on the quashed information became a nullity, and could not support the defendant's enhanced sentence.

Opinion by: Lawrence E. Mooney, J.    Glenn A. Norton, P.J. and Mary K. Hoff, J.,  
concur.

Attorney for Appellant:    Ellen H. Flottman

Attorney for Respondent:    Chris Koster, Shaun J. Mackelprang, Richard A. Starnes

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
---